

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0397P**

**Use Tax**

**Calendar Years 1993, 1994, 1995, and 1996**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed on an audit completed on April 7, 1998.

During 1994 and 1995, taxpayer opened three retail outlets in Indiana. Taxpayer failed to self-assess use tax on purchases of fixed assets that were used to furnish these stores.

1. **Tax Administration** – Penalty

**DISCUSSION**

Taxpayer's audit report revealed that it failed to self assess use tax for its fixed assets purchases.

Taxpayer requests a waiver of penalties because its internal procedures are constantly being monitored and improved to insure that it fully complies with all tax laws. It never willfully or intentionally refused to pay its tax.

45 IAC 2.2-3-20 and 45 IAC 2.2-3-21 clearly explains the taxability of merchandise accepted in Indiana and merchandise accepted outside Indiana for use in Indiana. The taxpayer was negligent in

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failing to self-assess and remit use tax on clearly taxable fixed assets purchases.

**FINDING**

Taxpayer's protest is denied.